

JOE L. WATTS

IBLA 81-339

Decided October 26, 1981

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 34719 through I MC 34734.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Estoppel -- Federal Employees and Officers: Authority to Bind Government -- Mining Claims: Assessment Work

Evidence of annual assessment work must be delivered to and received by the proper BLM office in order to be filed. Depositing a document in the mails does not constitute filing. Reliance on erroneous information provided by BLM employees which is contrary to regulation does not relieve a mining claimant of this obligation.

APPEARANCES: Joe L. Watts, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Joe L. Watts has appealed from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated January 16, 1981, declaring the Ex. #1 through Ex. #14, the Sitting Bull No. 12, and Sitting Bull No. 13 mining claims, I MC 34719 through I MC 34734, abandoned and void for failure to file on or before December 30, 1980, evidence of annual assessment work or notices of intention to hold the claims, pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR Subpart 3833.

Appellant's mining claims were located in February and April 1967 and filed for recordation with BLM on October 16, 1979. On January 2, 1981, BLM received an "Affidavit of Assessment Work" for the subject mining claims "for the year ending Sept. 1, 1980."

In his statement of reasons for appeal, appellant states that he was "given information by the local office of the BLM that the envelope containing the copy of the Evidence of Assessment Work must be post-marked by December 30, 1980, not received in your office by that date." Appellant also notes that he has "adequately filed with the county offices on time."

[1] The owner of an unpatented mining claim, located prior to October 21, 1976, must file with the proper BLM office by October 22, 1979, and on or before December 30 of each calendar year thereafter, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the claim. 43 U.S.C. § 1744(a) (1976); 43 CFR 3833.2-1(a). Failure to file timely the required instrument is deemed conclusively to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). Ben Hester, 58 IBLA 163 (1981). Filing evidence of assessment work in the county recorder's office does not relieve claimant of the necessity of filing with the proper BLM office. Caroline E. Brown, 56 IBLA 334 (1981).

[2] Filing is accomplished when a document is delivered to and received by the proper office. Depositing a document in the mails does not constitute filing. 43 CFR 1821.2-2(f); Ben Hester, *supra*. Reliance on erroneous information to the contrary provided by BLM employees cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute or regulation or relieve the claimant of the consequences imposed by the statute for failure to comply with its requirements. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); see 43 CFR 1810.3(c). All parties dealing with the Government are presumed to have knowledge of the relevant statutes and regulations duly promulgated thereunder. John Plutt, Jr., 53 IBLA 313 (1981); see Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

In enacting the filing requirements of section 314 of FLPMA, 43 U.S.C. § 1744 (1976), Congress did not invest the Secretary of the Interior with authority to excuse compliance with the statute, or to afford any relief from the statutory consequences. Lynn Keith, *supra*; *see* Western Mining Council v. Watt, 643 F.2d 618, 628 (9th Cir. 1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

